

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

FOTI KARASTAMATIS and PETE QUIMBY,)
Individually and on behalf of all other)
Similarly situated current and former)
employees,)

Plaintiffs,)

v.)

Case No. 2:15-cv-02263-STA-tmp

DEVERE CONSTRUCTION COMPANY, INC.,)
a Michigan Corporation; CRITTENDEN)
CONSTRUCTION COMPANY, INC., a)
Michigan Corporation; DEVERE)
CONSTRUCTION COMPANY – MI, LLC, a)
Michigan Limited Liability Company; DEVERE)
INDUSTRIAL, LLC, a Michigan Limited)
Liability Company; DEVERE)
CONSTRUCTION MANAGEMENT, L.L.C., a)
Michigan Limited Liability Company; DEVERE)
CONSTRUCTION SOLUTIONS, L.L.C., a)
Michigan Limited Liability Company; DEVERE)
SWEPCO JV, LLC, a Louisiana Limited)
Liability Company; OAK CITY)
CONTRACTING, LLC, a North Carolina)
Limited Liability Company; REDS TRADERS)
LIMITED, a foreign corporation, a Belize)
Company, RICHARD LEE “DICK”)
CRITTENDEN, MICHAEL BRUCE)
CRITTENDEN, CYNTHIA SUE GABARA,)
CHERYL JEAN LUMSDEN, NICHOLAS)
GABARA, and BROCK JOHNSON, individual,)

Defendants.)

JOINT MOTION TO AMEND THE SCHEDULING ORDER AND CONTINUE TRIAL

Plaintiffs Foti Karastamatis and Pete Quimby and Defendant De Vere Construction Company, Inc. jointly request that the Court suspend dates in the Scheduling Order contingent on

the Court's ruling on Plaintiffs' Motion for Conditional Certification (D.E. # 44). Plaintiffs filed their Motion for Conditional Certification on the June 30, 2016 deadline. D.E. # 24, at 2. Thus, DeVere Inc.'s Response to this Motion is due sixty days later, on August 29, 2016. *Id.*

But the Scheduling Order also contains deadlines tied to the Court's ruling on Plaintiffs' Motion. For example, the dispositive motion deadline is August 26, 2016—before DeVere Inc.'s Response to the Motion for Conditional Certification is due. The Scheduling Order recognizes that this dispositive motion deadline may require modification based on when the Court rules on conditional certification—which also affects when discovery closes. *Id.* Because the Court will need to reset the dispositive motion deadline, as well as set a deadline for any decertification motion DeVere Inc. (or any other defendant) may file, the Court should suspend the asterisked deadlines in the Scheduling Order until after it issues its final ruling on Plaintiffs' Motion for Conditional Certification. The recent addition of fourteen new defendants who have not yet answered and have not had the opportunity to participate in discovery further supports the suspension of the asterisked dates in the Scheduling Order until after the Court rules on Plaintiffs' Motion for Conditional Certification.

Furthermore, discovery will continue for 120 days after the close of the conditional certification period (if the Court grants Plaintiffs' Motion). Trial in this case is currently scheduled to begin on Monday, December 5, 2016. D.E. # 25. But due to the timing of Plaintiffs' Motion for Conditional Certification, discovery may still be ongoing on December 5. Accordingly, the Court should continue trial and hold a second scheduling conference after it issues its final ruling on Plaintiffs' Motion for Conditional Certification.

Date: August 26, 2016

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

s/ Audrey M. Calkins

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**COUNSEL FOR DEFENDANT
DEVERE CONSTRUCTION COMPANY, INC.**

CERTIFICATE OF CONSULTATION

I hereby certify that I conferred with counsel for Plaintiffs' counsel by email regarding this Motion, and Plaintiffs' counsel indicated that they would join this Motion.

s/ Audrey M. Calkins

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been filed with the Clerk of the United States District Court for the Western District of Tennessee using the CM/ECF system. The Court's CM/ECF system will send an email notification of the foregoing filing to the following parties and counsel of record who are registered with the Court's CM/ECF system.

Gordon E. Jackson
James L. Holt, Jr.

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s/ Audrey M. Calkins